

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24-7-2007

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

C.R.P.NPD No.1795 of 2006

and

MP No.1 of 2006

Rajendran .. Petitioner (Tenant)

vs

Ambika

Rep. By Power Agent

Jeyaraman

.. Respondent (Landlord)

Civil revision petition preferred under Sec.25 of the Tamil Nadu Buildings (Lease and Rent Control) Act 18/60 as amended by Act 23/73 and Act 1/80 against the fair and decreetal order of the Principal Sub Court (Rent Control Appellate Authority), Mayiladuthurai, dated 19.7.2006 and made in RCA No.18/2005 reversing the fair and decreetal order of the District Munsif (Rent Controller), Sirkali, dated 1.9.2005 and made in RCOP No.3/2003.

For Petitioner : Mr.S.Sounthar

For Respondent : No appearance

ORDER

Challenging an order of the Rent Control Appellate Authority, Mayiladuthurai, made in RCA No.18 of 2005 whereby the order of the Rent Controller, Sirkali, was reversed by granting an order of eviction in favour of the respondent-landlord, the tenant has brought forth this revision before this Court.

2.The respondent filed the RCOP seeking eviction on the ground of demolition and reconstruction shortly stating that the revision petitioner is a tenant in respect of the premises in question under the oral agreement for lease on a monthly rental of Rs.200/-; that he has been carrying on his business in groundnut; that the building is more than 50 years old; that the adjacent vacant site belonged to her; that the building is required for the purpose of demolition and reconstruction in the entire site; that she would raise a shopping complex; that the same would augment her income, and under the circumstances, a notice was issued which brought forth a reply with untenable and false allegations; and hence, eviction was to be ordered.

3.The petition was resisted by the tenant stating that it is not correct to state that the building is old; that it is in a good condition; that there was no need for the landlady to seek eviction on the ground of demolition and reconstruction; that originally, there was a notice issued in 1990, and the rent was also raised; that now, this is an attempt to raise the monthly rental, and under the circumstances, the petition has been brought forth, which is vexatious and liable to be dismissed.

4.On enquiry, the Rent Controller agreed the defence plea and dismissed the petition. Aggrieved, the landlady took it on appeal before the appellate forum, and on enquiry, the appeal was allowed setting aside the order of the Rent Controller, and an order of eviction was made. Aggrieved, the tenant has brought forth this revision before this Court.

5.The Court heard the learned Counsel for the petitioner. There was no representation on the side of the respondent.

6.In support of the revision, the learned Counsel for the petitioner would submit that in the instant case, originally, there was a notice issued in the year 1990 on the very same ground; that following the same, the rent was raised; that thereafter, the landlady kept quiet; that now, she has come forward with another notice following which there was no chance for enhancement of rental; that aggrieved over the same, she has brought forth the instant petition for eviction again; and that she is not possessed with sufficient means to raise any construction. Added further the learned Counsel that the Power of Attorney of the petitioner was examined from whose evidence it would be quite clear that this part of the property wherein the building is situated having a tiled roof, is not required for raising constructions; that under the circumstances, the petition lacks bonafide; that the proposed construction was only imaginary, and under the circumstances, the Rent Controller has dismissed the petition; but, the appellate authority has erroneously passed an order of eviction, and hence, it has got to be set aside.

7.After considering the submissions made and looking into the materials available, this Court is of the considered opinion that the order of the appellate authority has got to be sustained. Firstly, it is not in controversy that the petitioner is a tenant under the respondent-landlady in respect of the premises having a tiled roof. Even as per the Engineer's report, the building is very old. That apart, Ex.A1, the sale deed, would also indicate that the property is an old one. Thus, the contention of the revision petitioner that the premises is in a good condition has got to be rejected.

8.Secondly, it is an admitted position that there was a notice issued by the landlady in the year 1990 on the same reason; but, subsequently, a quietus was given by raising the rental. After a period of 13 years, the instant notice was issued for the same reason, and the petition has been brought forth. Had it been the

real intention of the landlady to evict him and get possession, she would not have waited for a period of 12 more years. Under the circumstances, the contention that she has got only an intention to evict him has got to be rejected.

9.Thirdly, in the case on hand, she has applied for new construction, and the vacant site by the side of the premises in question is also belonging to her. In such circumstances, only by way of demolition, she could make construction in the entire property belonging to her, and she would augment her income. In such circumstance, there cannot be any impediment for accepting such a desire of a landlady.

10.For the reasons stated above, the order of the appellate authority has got to be sustained. This Court is unable to notice any merit in the revision, and the same is liable to be dismissed. However, taking into consideration that the petitioner is carrying on his business in the petition mentioned premises, sufficient time has got to be given to him for getting a suitable premises to accommodate his business. Accordingly, 9 (nine) months' time is granted for vacating and handing over possession to the landlady. An affidavit of undertaking shall be filed within a period of two weeks herefrom.

11.In the result, this civil revision petition is, accordingly, dismissed. No costs. Consequently, connected MP is also dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

- 1.The Rent Control Appellate Authority
The Principal Subordinate Judge
Mayiladuthurai
- 2.The Rent Controller-
The District Munsif
Sirkali

3.The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.S.Sounthar, Advocate Sr 45963

nsv/
VC (CO)

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